

## DECISIONS

## COUNCIL DECISION 2010/437/CFSP

of 30 July 2010

**amending Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28 and Article 43(2) thereof,

Whereas:

- (1) On 10 November 2008, the Council adopted Joint Action 2008/851/CFSP on a European Union military operation to contribute to the deterrence, prevention and repression of acts of piracy and armed robbery off the Somali coast <sup>(1)</sup>.
- (2) On 8 December 2009, the Council adopted Decision 2009/907/CFSP amending the abovementioned Joint Action <sup>(2)</sup>.
- (3) With piracy being more and more effectively prevented in the Gulf of Aden and other areas near to the Somali coast, pirates are increasingly extending their activities into maritime areas more than 500 nautical miles off the coast of Somalia and neighbouring countries.
- (4) Joint Action 2008/851/CFSP should be amended accordingly,

HAS ADOPTED THIS DECISION:

*Article 1*

Joint Action 2008/851/CFSP is hereby amended as follows:

1. Article 1(2) is replaced by the following:

'2. The forces deployed to that end shall operate off the coast of Somalia and neighbouring countries in the maritime areas within the region of the Indian Ocean, in accordance with the political objective of an EU maritime operation, as defined in the crisis management concept approved by the Council on 5 August 2008.;

<sup>(1)</sup> OJ L 301, 12.11.2008, p. 33.

<sup>(2)</sup> OJ L 322, 9.12.2009, p. 27.

2. Article 6(1) is replaced by the following:

'1. Under the responsibility of the Council and of the High Representative of the Union for Foreign Affairs and Security Policy (hereinafter referred to as the "HR"), the Political and Security Committee (hereinafter referred to as the "PSC") shall exercise the political control and strategic direction of the EU military operation. The Council hereby authorises the PSC to take the relevant decisions in accordance with Article 38 of the Treaty. This authorisation shall include the powers to amend the planning documents, including the Operation Plan, the Chain of Command and the Rules of Engagement. It shall also include the powers to take decisions on the appointment of the EU Operation Commander and/or EU Force Commander. The powers of decision with respect to the objectives and termination of the EU military operation shall remain vested in the Council, assisted by the HR.;

3. Article 8 is replaced by the following:

*'Article 8***Coherence of EU response**

The HR, the EU Operation Commander and the EU Force Commander shall closely coordinate their respective activities regarding the implementation of this Joint Action.;

4. Article 9(1) is replaced by the following:

'1. The HR shall act as the primary point of contact with the United Nations, the Somali authorities, the authorities of neighbouring countries, and other relevant actors. Within the context of his contact with the African Union, the HR shall be assisted by the EU Special Representative (EUSR) to the African Union.;

5. Article 10(3) is replaced by the following:

'3. Detailed modalities for the participation by third States shall be the subject of agreements concluded in accordance with the procedure laid down in Article 37 of the Treaty. Where the EU and a third State have concluded an agreement establishing a framework for the latter's participation in EU crisis management operations, the provisions of such an agreement shall apply in the context of this operation.;

6. Article 11 is replaced by the following:

*‘Article 11*

**Status of EU-led forces**

The status of the EU-led forces and their personnel, including the privileges, immunities and further guarantees necessary for the fulfilment and smooth functioning of their mission, who:

- are stationed on the land territory of third States,
- operate in the territorial or internal waters of third States,

shall be agreed in accordance with the procedure laid down in Article 37 of the Treaty.’;

7. Article 15 is replaced by the following:

*‘Article 15*

**Release of information to the United Nations and other third parties**

1. The HR is hereby authorised to release to the United Nations and to other third parties associated with this Joint Action, classified EU information and documents generated for the purposes of the EU military operation up to the level

of classification appropriate for each of them and in accordance with the Council’s security regulations (\*).

2. The HR is hereby authorised to release to the United Nations and to other third parties associated with this Joint Action, unclassified EU documents relating to Council deliberations on the operation which are covered by the obligation of professional secrecy pursuant to Article 6(1) of the Council’s Rules of Procedure (\*\*).

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(\*) Council Decision 2001/264/EC of 19 March 2001 adopting the Council’s security regulations (OJ L 101, 11.4.2001, p. 1).

(\*\*) Council Decision 2009/937/EU of 1 December 2009 adopting the Council’s Rules of Procedure (OJ L 325, 11.12.2009, p. 35).’.

*Article 2*

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 30 July 2010.

*For the Council*  
*The President*  
S. VANACKERE